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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,377	04/20/2004	Raymond Clarke	24785.00	3809
37833	7590	04/04/2006	EXAMINER	
LITMAN LAW OFFICES, LTD PO BOX 15035 CRYSTAL CITY STATION ARLINGTON, VA 22215			LEWIN, ALLANA	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/827,377	Applicant(s) CLARKE ET AL.	
	Examiner Allana Lewin	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/20/04 & 3/3/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the 'second latching mechanism' is denoted by reference numeral 56 on page 9, line 13 and subsequently by reference numeral 64 (page 10, lines 18-19; page 11, lines 5-6). Furthermore, the 'first latching mechanism' was previously denoted by reference numeral 56.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6, 7, 9, 10, 14-16, 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Ballegooie (US Pat. No. 5,336,151).

4. Van Ballegooie discloses an exercise device comprising: a flexible body (note Figure 4) including a rectangular portion (3), an elongated strap (32), and fastening means being hook and loop fasteners (column 3, lines 49-54) on the elongated strap, and thus also on the flexible body as the elongated strap partially comprises the flexible body, that maintain the rectangular portion and the elongated strap joined when the device is in use; elastic straps (26, 40); a plurality of retainers that are D-rings (38)

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affixed on the flexible body; and snap hooks (18) or 'latching hooks' that are a means for latching the elastic straps to the retainers. Applicant has broadly recited the flexible body being adapted to attach about the post and base of a chair, the Examiner notes that the flexible body is capable of being attached to the ^{post}~~post~~ and base of a chair as member 30 can be secured under the base while member 32 can be secured and fastened around the post.

5. Van Ballegooie further discloses a flexible band (10) that is capable of being attached about a chair back support, as the Applicant has merely recited the flexible band being adapted to do so, with the flexible band having a retainer affixed thereon (16), as well as having fastening means that are hook and loop fasteners (14,15).

6. The Van Ballegooie device further comprises an ankle attachment piece (30, 36 and note Figure 5), as well as a plurality of attachable handles (note Figure 7) for attachment to an elastic strap.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ballegooie in view of Norstrem et al. (US Pat. No. 6,540,705)

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9. Van Ballegooie, discussed in detail above, fails to disclose the fastening means comprising a plurality of apertures and a lace.

10. Norstrem discloses a foot support having rectangular and elongated components both with a plurality of eyelets or apertures (note Figure 3) wherein a lace (22) interconnects these components. Norstrem teaches that the use of the eyelets and lace allows for better adjustment of the device (column 4, lines 4-7).

11. Based on the teachings of Norstrem, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized a plurality of apertures and a lace as the fastening means in the Van Ballegooie device so as to provide greater adjustability to the device, thereby allowing for a more secure attachment. Furthermore, it is well known and obvious in the art that various fastening means may be substituted for one another or used together.

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ballegooie in view of Suarez et al. (US Pat. No. 4,815,731).

13. Van Ballegooie, discussed in detail above, fails to disclose retainers as nylon strips.

14. Suarez discloses an exercise device for attachment about a user's ankles and that is capable of attachment to a chair having a strip of reinforcing material made of nylon (column 3, lines 11-18) with loops or retainers formed therein for attachment of a metal ring.

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15. Based on the teachings of Suarez, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized retainers that are nylon strips in the Van Ballegooie device so as to provide reinforcement to the device while also making the device easier and cheaper to manufacture.

16. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ballegooie in view of Iavarone (US Pat. No. 5,643,159) and further in view of Atrizadeh (US Pat. App. Pub. No. 2005/0043154).

17. Van Ballegooie, discussed in detail above, fails to disclose a plurality of adjusting pieces, and specifically spring-loaded adjusting pieces.

18. Iavarone discloses an exercise device having a flexible body (12), similar and comparable to that of the Van Ballegooie device, with elastic exercise straps (14), attached via retainers, having an adjustment device or piece (16). Iavarone teaches the adjustment device comprising a spring loaded device that allows for the shortening and elongation of the elastic straps and therefore inherently varies the resistance of the straps as shortening the strap will increase resistance while lengthening will decrease the resistance.

19. Atrizadeh discloses an exercise device having a *plurality* of adjusting buckles (note Figure 3), which comprehend Applicant's 'adjusting pieces', that adjust the length of elastic tubes/straps and also vary their resistance (note paragraph 34).

20. Based on the teachings of Iavarone and Atrizadeh, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized a

plurality of spring loaded adjustment pieces in the Van Ballegooie device so for adjustability of the length and resistance of the elastic straps, therefore making the device more versatile and functional.

21. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Ballegooie in view of Hagerman et al. (US Pat. No. 4,685,671).

22. Van Ballegooie, discussed in detail above, fails to disclose permanently affixed handles.

23. Hagerman discloses a multi-purpose exerciser having a flexible body with a removably attached elastic exercise strap having a pair of permanently attached handles or grips (12) so as to prevent inadvertent removal of the grip from the tube (column 2, lines 64-68).

24. Based on the teachings of Hagerman, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized permanently affixed handles in the Van Ballegooie device so as to ensure the handles are reliably and securely attached and thereby preventing accidental or unintended removal of the handles while a user is exercising.


Conclusion


25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
26. Bender (US Pat. No. 5,007,417) discloses a foot support comprised of two members fastened via a plurality of apertures on each member and a lace.
27. Miller (US Pat. No. 5,803,881) discloses an exercise device comprising removably attached elastic straps with permanently affixed handles.
28. Rose (US Pat. No. 5,490,826) discloses a training device comprising nylon slide straps or retainers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allana Lewin whose telephone number is 571-272-5560. The examiner can normally be reached on Monday-Friday, 8AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AL 
3/31/2006


STEPHEN R. CROW
PRIMARY EXAMINER
ART UNIT 332